

# THE PATENT REFORM ACT

## SECURING AMERICAN INNOVATION – CREATING AMERICAN JOBS

On April 20, the U.S. Department of Commerce released a [report](#) highlighting how the Patent Reform Act will promote economic growth and job creation. Also on April 20, Commerce Secretary Gary Locke sent a letter to Senate Judiciary Committee leaders expressing the administration's strong support for a manager's amendment released in March by Senator Patrick Leahy, Senator Orrin Hatch and others.

### Report Concludes That Patent Reform Will Accelerate Economic Growth And Job Creation.

**REPORT:** "Along with timeliness of patent examination and grant, **high patent quality** – that is, the grant of patents that meet statutory requirements of patentability such as novelty, non-obviousness, and a clear identification of precisely what the patent claims – is **closely correlated with the most valuable innovations.**"

**THE PATENT REFORM ACT makes important changes to improve patent quality**, establishing the opportunity for third parties to submit information related to a pending application, giving patent examiners a valuable tool to use to grant only high quality patents.

**REPORT:** "While timely, high-quality patents can provide a strong spur to innovation, **the current patent system fails to provide consistent timeliness and quality**....Delay, uncertainty, and poor quality at the front end ultimately make private investments in innovation less likely and undermine the potential for economic growth and job creation."

**THE PATENT REFORM ACT improves the current system for administratively challenging the validity of a patent at the Patent and Trademark Office through the life of the patent.** The Patent Reform Act creates a more meaningful alternative to litigation, and includes a threshold for instituting a proceeding and procedural safeguards to prevent a challenger from using inter partes review to harass patent owners.

**REPORT:** "...[T]he USPTO currently has an unexamined patent application backlog of over 750,000...In order to reduce the backlog, the USPTO will have to incur significant additional expenses...As a fully fee-funded organization, the USPTO must use fee revenues for all these expenses. However, **the fee schedule in the current patent statute fails to provide the USPTO with the flexibility it needs to assure that its future revenues are commensurate with the costs it will incur to modernize its operations.** The current fee structure is inflexible and poorly aligned with actual costs, making it exceedingly difficult to fund long-needed modernizations."

**THE PATENT REFORM ACT provides fee setting authority for the PTO Director to ensure the PTO is properly funded** and can reduce the backlog of patent applications.

**REPORT CONCLUSION:** "Given the current economic and employment situation, all reasonable proposals should be considered. We believe the patent reform agenda deserves special attention because it has a unique trait. It is likely to expand the Nation's innovative output while adding \$0 to the Federal deficit. **This deficit-neutral form of stimulus presents an economic opportunity that should be seized.**"

### The Administration Supports Enactment Of The Manager's Amendment To The Patent Reform Act.

"We believe the agreement reflected in the draft Manager's Amendment to S. 515...improves the reported bill and incorporates critical elements of patent reform...the Manager's Amendment contains provisions to promote international harmonization of patent laws and limit opportunities for abuse in patent litigation...The Administration is eager to see patent reform enacted this congressional session. To this end, we would be pleased to work with you and members of the House and Senate to arrive at a final bill for passage." -- Secretary Gary Locke, [April 20, 2010](#)